

ORIGINAL

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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In re : MDL No. 1285  
Misc. No. 99-197 (TFH)  
VITAMINS ANTITRUST LITIGATION. :

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This Document Relates To: : **FILED**  
**OCT 16 2003**

ALL INDIRECT-PURCHASER ACTIONS. : **NANCY MAYER WHITTINGTON, CLERK**  
**U.S. DISTRICT COURT**

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**STIPULATION AND ~~PROPOSED~~ ORDER**  
**RE SCHEDULING**

WHEREAS, under the Order entered July 10, 2003 (the "July 10 Order"), further scheduling in the Indirect-Purchaser Actions is contingent, among other things, on the disposition of the motions identified in Exhibit A to the July 10 Order: a motion to dismiss in *PFFJ*, D.D.C. No. 00 Civ. 2115 (TFH), several motions to dismiss in *D&D Farms*, D.D.C. No. 00 Civ. 2117 (TFH), a motion to amend in *Publix*, D.D.C. No. 99 Civ. 2786 (TFH), a motion to amend in *Meijer*, D.D.C. No. 99 Civ. 3282 (TFH), and several summary judgment motions pending in all Indirect-Purchaser Actions; and,

WHEREAS, the motions to amend in *Publix* and *Meijer* have now been decided; and,

WHEREAS, all claims in the *PFFJ* and *D&D Farms* actions are subject either to completed and funded settlement agreements or to very firm agreements in principle; and,

WHEREAS, the parties agree that it is no longer appropriate that further scheduling in the Indirect-Purchaser Actions generally should be subject to developments in the *PFFJ* and *D&D Farms* actions,

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NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED,

subject to the approval of the Court, as follows:

1. That all proceedings in the *PFFJ* and *D&D Farms* actions be stayed pending further Order of the Court;
2. That Exhibit A to the July 10 Order be amended by deleting its references to the motions to amend in *Publix* and *Meijer* and to those motions pending only in *PFFJ* or *D&D Farms*, and that it be restated in the form of Exhibit A hereto; and,
3. That the parties to the Indirect-Purchaser Actions be directed to serve proposals for a Case Management Order within 30 days of the date on which the last of the motions identified in Exhibit A hereto has been resolved.

Dated: October 10, 2003



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SO ORDERED, October 15, 2003:

Thomas F. Hogan

Hon. THOMAS F. HOGAN  
Chief United States District Judge

CERTIFICATE OF SERVICE

The undersigned member of the Bar of this Court hereby certifies that on October 10, 2003, he caused the foregoing STIPULATION AND [PROPOSED] ORDER RE SCHEDULING to be served on all MDL counsel in accordance with the Order Regarding Electronic Service entered May 17, 2000.

A handwritten signature in black ink, appearing to read "Michael O. Ware", written in a cursive style.

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MICHAEL O. WARE

## **Exhibit A**

***Schedule of Motions Pending in Indirect-Purchaser Actions  
Whose Disposition Will Trigger the Obligation to Submit  
Case Management Order Proposals***

## **EXHIBIT A**

**Amended and Restated October 2003**

### **Motions Pending in Indirect-Purchaser Actions Whose Disposition Will Trigger the Obligation to Submit Case Management Order Proposals**

#### **SUMMARY JUDGMENT MOTIONS IN ALL INDIRECT-PURCHASER ACTIONS**

The summary judgment motions identified below carry the numbers assigned to them in the Dispositive Motions chart submitted to the Court under Richard Leveridge's letter of August 14, 2002 (Verilaw No. 11459). These motions are pending in all Indirect-Purchaser Actions except as noted.

**Dispositive Motion No. 7: Degussa "All Vitamins."** Degussa AG and Degussa Corporation's Motion for Partial Summary Judgment on "All-Vitamins" Conspiracy Claim and [Proposed] Order, filed *under seal* August 6, 2002 (Verilaw # 11279); Memorandum in Support, filed *under seal* August 6, 2002; Statement of Material Facts in Support filed *under seal* August 6, 2002 (Verilaw # 11254); Certain Defendants' Joint Memorandum of Law in Support of Summary Judgment on Plaintiffs' All-Vitamins Conspiracy and Joint Appendix to Certain Defendants' Joint Memorandum of Law in Support of Summary Judgment on Plaintiffs' All-Vitamins Conspiracy, filed *under seal* August 2, 2002 (Verilaw # 11030; Joint Appendix To Certain Defendants' Joint Memorandum of Law in Support of Summary Judgment on Plaintiffs' All-Vitamins Conspiracy, filed *under seal* August 2, 2002 (Verilaw #s 11052-057, 11060-061).<sup>\*</sup> Opposition papers filed September 9, 2002 and September 10, 2002 (Verilaw ## 11934, 12071, 11865); Reply Memorandum in Further Support, filed *under seal* September 30, 2002 (Verilaw ## 12562, 12641). *Fully briefed, argued and ready for decision. Pending only in Publix and Meijer.*

**Dispositive Motion No. 8: Lonza "All Vitamins."** The Lonza Defendants' Motion For Partial Summary Judgment Dismissing Plaintiffs' All-Vitamins Conspiracy Claim; Memorandum of Law in Support; Statement of Material Facts Not in Genuine, Certification Stephan W. Engelhardt, filed *under seal* August 6, 2002 (Verilaw ## 11128-134); Opposition papers filed September 9, 2002 and September 10, 2002 (Verilaw ## 11934, 12071, 11870);

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<sup>\*</sup> The Joint Memorandum of Law was submitted in support of the "All Vitamins" motions of a number of defendants, including the following defendants which remain movants in one or more Indirect-Purchaser Actions: Chinook Group Limited; Chinook Group, Inc.; Degussa AG; Degussa Corp.; DuCoa, L.P.; DCV, Inc.; Lonza AG, Lonza Inc.; Reilly Industries, Inc.; and, Reilly Chemicals, S.A.

Reply Memorandum in Further Support, filed *under seal* September 30, 2002 (Verilaw # 12578, 12618). *Fully briefed, argued and ready for decision.*

**Dispositive Motion No. 10: Reilly "All Vitamins."** The Reilly Defendants' Joint Motion For Summary Judgment on Plaintiffs' All-Vitamins Conspiracy Claim; [Proposed] Order; served August 6, 2002 (Verilaw ## 11260-261); Memorandum of Law in Support (with Appendix) and Statement of Undisputed Material Facts, filed *under seal* August 6, 2002 (Verilaw #s 11262-263, 11265); Opposition papers filed September 9, 2002 and September 10, 2002 (Verilaw ## 11934, 12071, 11872); Reply Memorandum in Further Support, filed served September 30, 2002 (Verilaw ## 12562 and 12632). *Fully briefed, argued and ready for decision. Pending only in Publix and Meijer.*

**Dispositive Motion No. 13: DuCoa/DCV "All Vitamins."** DuCoa, L. P.'s and DCV, Inc.'s Motion for Summary Judgment on Plaintiff's All-Vitamins Conspiracy Claim; Memorandum of Law in Support, Statement of Material Facts Not Dispute; [Proposed] Order; and Exhibits, served August 6, 2002 (Verilaw # 11185); Opposition papers filed September 9, 2002 and September 10, 2002 (Verilaw ## 11934, 12071, 11967, 11968); Reply Memorandum in Further Support, filed *under seal* September 30, 2002 (Verilaw ## 12734, 12737-738). *Fully briefed, argued and ready for decision.*

**Dispositive Motion No. 16: Chinook "All Vitamins."** Chinook Group Limited and Chinook Group, Inc.'s Motion For Summary Judgment on Plaintiffs' All-Vitamins Conspiracy Claim, served August 6, 2002 (Verilaw # 11310); Opposition papers filed September 9, 2002 and September 10, 2002 (Verilaw ## 11934, 12071, 11957, 11958); Reply Memorandum in Further Support, filed *under seal* September 30, 2002 (Verilaw ## 12562, 12577, 12593). *Fully briefed, argued and ready for decision.*

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*N.b.: Three summary judgment motions pending in Indirect-Purchaser Actions are intentionally omitted from the list above of motions whose disposition will trigger the obligation to submit case management order proposals. The three are: Dispositive Motion No. 20 – Lonza B12 (Verilaw No. 11124, pending in all Indirect-Purchaser Actions); Dispositive Motion No. 27 – Degussa Corp. subsidiary liability (Verilaw No. 11282, pending only in Publix and Meijer); and, Dispositive Motion No. 2 – Rhône-Poulenc "All Vitamins." (Verilaw No. 11300, pending only in D&D Farms and PFFJ).*